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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,712	08/26/2003	Chris Zegelin	A35499	4070
21003	7590	09/13/2007		
BAKER BOTTS L.L.P. 30 ROCKEFELLER PLAZA 44TH FLOOR NEW YORK, NY 10112-4498			EXAMINER DANIEL JR, WILLIE J	
			ART UNIT 2617	PAPER NUMBER
			NOTIFICATION DATE 09/13/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/648,712

Applicant(s)

ZEGELIN, CHRIS

Examiner

Willie J. Daniel, Jr.

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2007.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's communication filed on 24 August 2007. **Claims 1-10** are now pending in the present application and **claims 11-16** are canceled. This office action is made **Final**.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 August 2007 has been entered.
3. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until

after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by **Bahl et al.**

(hereinafter Bahl) (US 6,799,047 B1).

Regarding **claim 1**, Bahl discloses in a system wherein a mobile computer (20, 80) which reads on the claimed “portable device”, arranged for wireless data communications with a computer (84), is located using radio signals between said portable device (20) and base stations which reads on the claimed “fixed devices” (see col. 4, lines 51-57; col. 5, lines 28-37; col. 13, lines 24-28; Figs. 1-4 and 6), and

wherein said computer (84) uses a database relating radio signal characteristics to location to compute location of said device (see col. 9, lines 34-47; col. 12, lines 42-46; Figs. 1-4 and 6), and

communicates location data to said portable device (20, 80) using wireless data communications, a method comprising the steps of: communicating from a computer (84) characteristic data representing radio signal environment in a sub-area (e.g., office 92) corresponding to said location data to said portable device (20, 80) (see col. 5, lines 28-37; col. 12, lines 46-51; Figs. 1-4 and 6), and

monitoring by said portable device (20, 80) received radio signals corresponding to said data representing radio signal environment to detect a change in location of said device (20, 80) (see col. 5, lines 42-54; Figs. 1-4 and 6).

Regarding **claim 2**, Bahl discloses the method specified in claim 1 wherein said portable device (20, 80) uses said characteristic data and said radio signals corresponding to said radio signal environment to update said location data (see col. 5, lines 42-54; Figs. 1-4 and 6).

Regarding **claim 3**, Bahl discloses the method specified in claim 2 wherein said device (20, 80) is arranged to transmit said location data to a computer in association with other data and wherein said device (20, 80) transmits said updated location data in association with said other data (see col. 5, lines 42-54; col. 9, lines 34-47; col. 12, lines 42-46; Figs. 1-4 and 6).

Regarding **claim 4**, Bahl discloses the method specified in claim 1 wherein said portable device (20, 80) signals said computer (84) to provide updated location data if said device (20, 80) determines that it has changed location (see Figs. 1-4 and 6).

Regarding **claim 5**, Bahl discloses the method specified in claim 1 wherein said portable device (20, 80) signals said computer (84) to provide an increased rate of updated location data if said device (20, 80) determines that it has moved (see Figs. 1-4 and 6).

Regarding **claim 6**, Bahl discloses a portable device (20, 80) arranged to communicate with a computer (84) using wireless data communications (see col. 4, lines 51-57; col. 5, lines 28-37; col. 13, lines 24-28; Figs. 1-4 and 6), comprising:

at least one wireless network interface (53) which reads on the claimed “radio receiver” for receiving signals including data communications (see col. 4, lines 14-20; Figs. 1-4 and 6); and

a processing unit (21) which reads on the claimed “processor” arranged to receive from said radio and store location data and characteristic data representing radio signal environment in a sub-area (e.g., office 92) corresponding to said location data (see col. 3, lines 12-32; col. 5, lines 28-37; Figs. 1-4 and 6),

said processor (21) being arranged to cause said receiver to monitor signals corresponding to said radio signal environment and to provide said processor (21) with radio signal data corresponding to said radio signal environment (see col. 5, lines 28-37; col. 12, lines 46-51; Figs. 1-4 and 6), and

said processor (21) being further arranged to use said radio signal data and said characteristic data representing radio signal environment in a sub-area (e.g., office 92) corresponding to said location data to determine if said device has changed location (see col. 5, lines 42-54; Figs. 1-4 and 6).

Regarding **claim 7**, Bahl discloses a portable device as specified in claim 6 wherein said processor (21) is further arranged to use said radio signal data and said characteristic data representing radio signal environment in a sub-area (e.g., office 92) corresponding to said location data to update said location data (see col. 5, lines 42-54; Figs. 1-4 and 6).

Regarding **claim 8**, Bahl discloses a portable device (20, 80) as specified in claim 7 wherein said device is arranged to transmit said location data to a computer (84) in association with other data (see col. 5, lines 42-54; col. 9, lines 34-47; col. 12, lines 42-46; Figs. 1-4 and 6).

Regarding **claim 9**, Bahl discloses a portable device (20, 80) as specified in claim 6 wherein said portable device (20, 80) further includes a transmitter and wherein said processor (21) is arranged to cause said transmitter to send a data message to said computer (84) to cause said computer (84) to update said location data if said device has changed location (see Figs. 1-4 and 6).

Regarding **claim 10**, Bahl discloses a portable device (20, 80) as specified in claim 6 wherein said portable device (20, 80) further includes a transmitter (53) and wherein said processor (21) is arranged to cause said transmitter to send a data message to said computer (84) to cause said computer (84) to provide an increased rate of location data if said device (20, 80) has changed location (see Figs. 1-4 and 6).

Response to Arguments

5. Applicant's arguments filed 24 August 2007 have been fully considered but they are not persuasive.

The Examiner respectfully disagrees with applicant's arguments as the applied reference(s) provide more than adequate support and to further clarify (see the above claims for relevant citations and comments in this section).

6. Regarding applicant's argument of claim 1 on pg. 4, 1st paragraph, "...not the same as communicating from a computer characteristic data representing radio signal environment in a sub-area corresponding to said location data to said portable device, monitoring by said portable device received radio signals corresponding to said data representing radio signal environment to detect a change in location of said device...", the Examiner respectfully disagrees. Bahl clearly discloses the feature

communicating from a computer (84) characteristic data representing radio signal environment in a sub-area (e.g., office 92) corresponding to said location data to said portable device (20, 80) (see col. 5, lines 28-37; col. 12, lines 46-51; Figs. 1-4 and 6), and

monitoring by said portable device (20, 80) received radio signals corresponding to said data representing radio signal environment to detect a change in location of said device (20, 80) (see col. 5, lines 42-54; col. 12, lines 27-30; Figs. 1-4 and 6), where the system monitors the strength of a signal.

7. Regarding applicant's arguments of the claims 2-10, the claims are addressed according to the same reasons as set forth in the items above and as applied above in each claim rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Bahl (US 7,133,909 B2) disclose systems and methods for locating mobile computer users in a wireless network.
- b. Spain, Jr. et al. (US 7,116,987 B2) discloses a location estimation of wireless terminals through pattern matching of deduced and empirical signal-strength measurements.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (571) 272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,JR/

WJD,JR
04 September 2007



CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER